



**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 622**

**[Docket No. 140214139-4139-01]**

**RIN 0648-BD91**

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;  
Coastal Migratory Pelagic Resources in the Gulf of Mexico and  
Atlantic Region; Regulatory Amendment 21**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed changes to management measures; request for comments.

**SUMMARY:** NMFS proposes to implement management measures described in Regulatory Amendment 21 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP) (Regulatory Amendment 21), as prepared and submitted by the South Atlantic Fishery Management Council (Council). If implemented, Regulatory Amendment 21 would modify the definition of the overfished threshold for red snapper, blueline tilefish, gag, black grouper, yellowtail snapper, vermilion snapper, red porgy, and greater amberjack. The purpose of Regulatory Amendment 21 is to prevent snapper-grouper stocks with low natural mortality rates from frequently

alternating between overfished and rebuilt conditions due to natural variation in recruitment and other environmental factors.

**DATES:** Written comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** You may submit comments on the proposed changes to management measures, identified by "NOAA-NMFS-2014-0039," by any of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to [www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2014-0039](http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2014-0039), click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.
- **Mail:** Submit written comments to Kate Michie, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

**Instructions:** Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive

information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

Electronic copies of Regulatory Amendment 21, which includes an environmental assessment and a regulatory impact review, may be obtained from the Southeast Regional Office Web Site at <http://sero.nmfs.noaa.gov>.

**FOR FURTHER INFORMATION CONTACT:** Kate Michie, telephone: 727-824-5305, or e-mail: [kate.michie@noaa.gov](mailto:kate.michie@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The snapper-grouper fishery of the South Atlantic Region is managed under the FMP. The FMP was prepared by the Council and implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

#### Background

The Magnuson-Stevens Act requires that NMFS and regional fishery management councils prevent overfishing and achieve, on a continuing basis, the optimum yield from federally managed fish stocks. These mandates are intended to ensure that fishery resources are managed for the greatest overall benefit to the nation, particularly with respect to providing food production

and recreational opportunities, and protecting marine ecosystems.

#### Management Measures Contained in Regulatory Amendment 21

Regulatory Amendment 21 would redefine the overfished threshold for red snapper, blueline tilefish, gag, black grouper, yellowtail snapper, vermilion snapper, red porgy, and greater amberjack as 75 percent of spawning stock biomass at maximum sustainable yield ( $SSB_{MSY}$ ). The minimum stock size threshold (MSST) is used to determine if a species is overfished. The MSST for the species in this amendment is a function of the natural mortality rate ( $M$ ) where  $MSST = 1 - M * SSB_{MSY}$  (spawning stock biomass of the stock when it is rebuilt). When the natural mortality rate is small (less than 0.25), as is the case for these species, there is little difference between the current threshold for determining when a stock is overfished (MSST) and when the stock is rebuilt ( $SSB_{MSY}$ ). Thus, for species like these which have a low rate of natural mortality, even small fluctuations in biomass due to natural conditions rather than fishing mortality may cause a stock to be classified as overfished. When a species is identified as overfished, the Magnuson-Stevens Act requires that a plan be implemented to rebuild the stock.

Based on the current definition of MSST, these species

could unnecessarily be classified as overfished. An overfished determination could result in lost fishing opportunities for these species if more stringent harvest restrictions were to be implemented. Regulatory Amendment 21 would redefine MSST for these species as 75 percent of  $SSB_{MSY}$ , which would help prevent overfished designations when small drops in biomass are due to natural variation in recruitment or other environmental variables such as storms, and extreme water temperatures, and ensure that rebuilding plans are applied to stocks when truly appropriate.

#### Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that Regulatory Amendment 21, the FMP, the Magnuson-Stevens Act and other applicable law, subject to further consideration after public comment.

The proposed changes to the management measures have been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this proposed rule, if adopted, would not have a significant economic impact on a

substantial number of small entities. The factual basis for this determination is as follows:

The proposed changes to management measures would directly apply to businesses in the finfish fishing industry (NAICS 114111) that participate in the South Atlantic snapper-grouper fishery. According to Small Business Act Size Standards, a business in the finfish fishing industry is small if its annual receipts are less than \$20.5 million. SBA adjusted the size standard for finfish fishing (NAICS 114111) from \$19 million to \$20.5 million to account for inflation and the adjusted size standard went into effect on July 14, 2014.

Every commercial fishing vessel in the snapper-grouper fishery must have a valid South Atlantic commercial snapper-grouper permit, which is a limited access permit for either an unlimited quantity of pounds per trip (a South Atlantic Snapper-Grouper Unlimited Permit) or up to 225 lb (102.1 kg) per trip (a 225-lb (102.1-kg) trip-limited permit). As of March 28, 2014, there were 542 valid South Atlantic Snapper-Grouper Unlimited Permits and 112 valid 225-lb (102.1-kg) trip-limited permits. It is from those permit figures that up to 542 small businesses with South Atlantic Snapper-Grouper Unlimited Permits and up to 112 small businesses with 225-lb (102.1-kg) trip-limited permits could be affected by the proposed changes.

These proposed changes to management measures would not impose additional reporting, record-keeping requirements, or other regulatory requirements on small businesses. The proposed changes would solely redefine the overfished threshold for eight stocks, and there would be no changes to current regulations that manage those stocks. Consequently, there would be no direct economic impact on small businesses. However, the proposed changes would reduce the likelihood of future adverse, possibly significant, economic impacts on a substantial number of small businesses caused by unnecessary regulatory actions that reduce small businesses' annual landings of and revenues from those eight stocks.

Authority: 16 U.S.C. 1801 et seq.

Dated: July 28, 2014.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator for Regulatory Programs,*

*National Marine Fisheries Service.*

**Billing Code: 3510-22-P**

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